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EXAMINER

REILLY, SEAN M

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/675,756	Applicant(s) KUZMA, ANDREW J.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,10-16,18-21,23-36,38-41,43-46,49,50 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,10-16,18-21,23-36,38-41,43-46,49,50 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on January 23, 2006. Claims 1, 2, 4-6, 10-16, 18-21, 23-36, 38-41, 43-46, 49, 50 and 52 are presented for further examination. All independent claims have been amended.

Specification

The disclosure is objected to because of the following informalities: pg 4, lines 17-20 of the specification recites the language "close to it users designed to" while defining an edge server. This language is not clear or grammatically correct. Appropriate correction is required. Note Applicant failed to clean up this language in the replacement paragraph submitted April 6, 2004.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- 1. Claims 21, 23-36, and 38-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 21, 23-36, and 38-40 are not limited to tangible embodiments. The claims each recite "a machine usable medium." Applicant fails to explicitly define "a machine usable medium" in the specification however Applicant does define "a processor readable medium" in the specification. "A machine usable medium" is understood to fall with the scope of "a processor readable medium." In view of Applicant's disclosure, specification page 7, lines 20-

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28, a processor readable medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., a semiconductor memory device) and intangible embodiments (e.g., a radio frequency RF link). As such, the claims are not limited to statutory subject matter and are therefore non-statutory. Applicant is invited to review the latest "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (signed October 26th, 2005) which further clarifies computer-related nonstatutory subject matter on pages 50-57.

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2. Claims 1, 2, 4-6, 10-16, 18-21, 23-36, 38-41, 43-46, 49, 50 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

With regard to claims 1, 2, 4-6, 10-16, 18-21, 23-36, 38-41, 43-46, 49, 50 and 52, the term "edge server" is indefinite. Applicant has defined an "edge server" as "a server that is physically located close to it users designed to deliver faster, higher quality transmissions" (Applicant's specification pg 4 and further affirmed by Applicant in the response filed January 23, 2006, pg 9 1st ¶). It is not clear what criteria must be met in order to classify a server as being *close* to the users which utilize that particular server. A person of skill in the art could not

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ascertain the metes and bounds of the claims because the term “close” is indefinite and thus the term “edge server” is indefinite.

With further regard to claim 1, it is not clear whether “a viewer” as recited on line 4 of the claim is the same viewer as recited in line 3 of the claim. It is presumed that the limitation “a viewer” on line 4 of the claim should instead recite “the viewer.”

With further regard to claim 21, it is presumed that the limitation “information being obtain from a viewable list of servers of a network” should instead recite “information being obtained from a viewable list of servers of a network.”

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 4, 5, 10, 11, 13-16, 18-21, 23-25, 28-31, 33-36, 38-41, 43-45, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (U.S. Patent No. 6,003,030, hereinafter “Kenner”) and McCanne (U.S. Patent Number 6,785,704) and Maddalozzo, Jr. et al. (U.S. Patent Number 6,178,460; hereinafter Maddalozzo).**

In considering claim 1, Kenner discloses a method comprising:

Registering information with a service provider (“mirror service provider”), the information including a preferred order of servers for routing content to a viewer (col. 7, lines 56-62; col. 13, lines 15-20, “prioritized ranking of delivery sites”);

Receiving a request by the viewer for the content, and in response to the viewer requesting the content, selecting one of the servers to be a selected server to receive and to transmit the content to the viewer via a network (col. 13, lines 15-36, wherein the prioritized ranking of content servers – i.e. “delivery sites” is stored and is used to select one of the servers when a client requests the content).

Kenner disclosed the invention substantially as claimed however, Kenner failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of Kenner’s system is to provide optimum delivery sites for improved performance from which clients can receive content (Col 5, lines 6-10 and Col 6, lines 24-27). Further it was notoriously widely known in the art at the time of the invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kenner to use edge servers as opposed to any server in order to improve

response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

Kenner also failed to specifically recite that the preferred order of servers are registered by *a viewer using the viewing system*. Nonetheless it was widely known at the time of the invention to have viewers (users) select a preferred order of servers for routing content to the viewer, as evidenced by Maddalozzo. In an analogous art, Maddalozzo disclosed a system that selects a server to retrieve viewer requested content based a preferred list of servers (ranked circulating list) (see inter alia Figure 7 and Col 11, lines 14-58). In Maddalozzo's system the viewer (user) selects a preferred list of servers from a list of servers displayed at the viewer (i.e. the user ranks the mirrored network locations) (see inter alia, Col 11, lines 23-30 and Col 12, lines 45-46). Maddalozzo disclosed that allowing users to enter the preferred order of servers for retrieving content allows the knowledge of the user, such as user's prior experience, to factor into the server selection process and helps to provide the best communication performance for the user (Col 10, lines 64-67). In addition to the user's past experience, the user may be aware of other factors such as scheduled system outages or a predicted increase in usage of particular server and accordingly would prefer not to utilize those servers for retrieving content. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the viewers of Kenner's system to select a preferred order of servers for retrieving content as disclosed by Maddalozzo, so that the knowledge of the user can be utilized in choosing the best servers for retrieving content and thereby increase overall system performance.

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In considering claim 2, Kenner further discloses that registering of the information comprises registering addresses of each of the edge servers with the service provider (col. 8, lines 32-33, 66-67, wherein the service provider stores the delivery site file, which includes the IP addresses of content servers).

In considering claim 4, Kenner further discloses that the information further comprises a unique identifier (col. 9, line 7, "Test ID").

In considering claim 5, Kenner further discloses that the unique ID is a number provided by the service (i.e. "Test ID").

In considering claim 10, Kenner further discloses that the information comprises a plurality of addresses corresponding to each of the servers (i.e. IP addresses of the servers).

In considering claim 11, Kenner further discloses updating the information (col. 13, lines 37-40, "MSP 32 maintains the delivery site list, adding and deleting sites as necessary").

In considering claim 13, Kenner further discloses storing a server location at a viewer location (the configuration utility 34 at the client stores the addresses of the servers).

In considering claims 14-15, Kenner further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 14, lines 40-47).

In considering claim 16, Kenner failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 18, Kenner further discloses that the network is a WAN ("Internet").

In considering claim 19, Kenner further discloses that the network is a network indicating a type of connection (all Internet communications inherently indicate a type of connection).

In considering claim 20, Kenner further discloses that the type of connection can be a modem connection (col. 9, line 39, "modem"). While Kenner does not explicitly say what type of modem is used, and thus does not explicitly disclose a dial-up modem, Examiner takes official notice that dial-up modems were well known at the time the invention was made. It would have been obvious to allow dial-up modem connections in the system taught by Kenner, so that users can communicate over the Internet via their phone lines, thus avoiding the need for a direct Internet connection.

Claims 21, 23-36, 38-41, 43-46, 49, 50 and 52 are rejected using a similar rationale as applied to parallel claims 1, 2, 4, 5, 10, 11, 13-16, 18, 19, and 20.

4. **Claims 21, 23, 24, 29-31, 33-36, 38-41, 43, 44, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens et al. (U.S. Patent No. 6,606,643, hereinafter “Emens”) and McCanne (U.S. Patent Number 6,785,704) and Maddalozzo, Jr. et al. (U.S. Patent Number 6,178,460; hereinafter Maddalozzo).**

In considering claim 21, Emens discloses a computer program product comprising a machine usable medium having a computer program code embedded therein, the computer program product having:

Computer readable program code for registering a plurality of servers with a service provider (col. 4, lines 35, “creating a list of mirror servers at the host server”) and for receiving information, identifying the plurality of servers to route the multimedia file to the viewer (col. 4, lines 33-40, wherein the information request sent from the client computer identifies the group of mirror servers);

Computer readable program code for selecting a server of the plurality of servers based on the received information (col. 4, lines 58-60, “selecting a particular mirror server”); and

Computer readable program code for transmitting the multimedia information from the selected server to a viewer via a network (col. 9, lines 59-67; col. 1, lines 27-35, wherein the client will connect to the selected server to receive multimedia web forms and other information).

Emens disclosed the invention substantially as claimed however, Emens failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of

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Emens's system is to provide faster delivery of content to users by selecting an optimum server for content delivery. Further it was notoriously widely known in the art at the time of the invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Emens to use edge servers as opposed to any server in order to improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

Emens also failed to specifically recite that the plurality of servers are registered by *a viewer using the viewing system*. Nonetheless it was widely known at the time of the invention to have viewers (users) select a servers for routing content to the viewer, as evidenced by Maddalozzo. In an analogous art, Maddalozzo disclosed a system that selects a server to retrieve viewer requested content based a preferred list of servers (ranked circulating list) (see inter alia Figure 7 and Col 11, lines 14-58). In Maddalozzo's system the viewer (user) selects a preferred list of servers from a list of servers displayed at the viewer (i.e. the user ranks the mirrored network locations) (see inter alia, Col 11, lines 23-30 and Col 12, lines 45-46). Maddalozzo disclosed that allowing users to enter the preferred order of servers for retrieving content allows the knowledge of the user, such as user's prior experience, to factor into the server selection

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process and helps to provide the best communication performance for the user (Col 10, lines 64-67). In addition to the user's past experience, the user may be aware of other factors such as scheduled system outages or a predicted increase in usage of particular server and accordingly would prefer not to utilize those servers for retrieving content. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the viewers of Emens's system to select the plurality of servers for retrieving content as disclosed by Maddalozzo, so that the knowledge of the user can be utilized in choosing the best servers for retrieving content and thereby increase overall system performance.

In considering claim 23, Emens further discloses that the information comprises an address (i.e. "mirror server address," col. 8, lines 18-23).

In considering claim 24, Emens further discloses that the information further comprises a unique identifier (i.e. the mirror server addresses are each unique).

In considering claim 29, Emens further discloses that the information comprises a plurality of addresses (i.e. the list of mirror server addresses).

In considering claim 30, Emens further discloses that the addresses correspond to a plurality of servers (mirror servers).

In considering claim 31, Emens further discloses computer readable program code for updating the information (col. 10, lines 13-24).

In considering claim 33, Emens further discloses computer program code for storing a server location at a viewer location (col. 8, lines 25-40, wherein the client stores the location of mirror servers based on round trip time, such that the mirror server with the shortest time is the closest server).

In considering claims 34-35, Emens further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 10, lines 46-51).

In considering claim 36, Emens failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 38, Emens further discloses that the network is a LAN or WAN (i.e. Internet).

In considering claim 39, Emens further discloses that the network indicates a type of connection (i.e. HTTP connections).

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In considering claim 40, Emens remains silent regarding the type of hardware connections that servers and clients can have to the network. Nonetheless, Examiner takes official notice that Ethernet, WDM, ATM, and dial-up modems were well known at the time the invention was made. It would have been obvious to allow these types of connections to the network taught by Emens because they are standard, widely available connection means.

Claim 41 presents an apparatus for performing the same steps as claim 21, and is thus rejected for the same reasons.

Claim 43 and 44 contain the same limitations as claims 23 and 24 and are thus rejected for the same reasons.

Claim 49 and 50 contain the same limitations as claims 29 and 30 and are thus rejected for the same reasons.

5. Claims 21, 23-25, 27-30, 32, 33-36, 38, 39, 40, 41, 43-45, 49, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al. (U.S. Patent No. 6,578,066, hereinafter “Logan”) and McCanne (U.S. Patent Number 6,785,704) and Maddalozzo, Jr. et al. (U.S. Patent Number 6,178,460; hereinafter Maddalozzo).

In considering claim 21, Logan discloses a computer program product comprising a machine usable medium having a computer program code embedded therein, the computer program product having:

Computer readable program code for registering a plurality of servers with a service provider and for receiving information, identifying the plurality of servers to route the multimedia file to the viewer (col. 10, lines 57-58, "ordered hand-off table" in the server switch);

Computer readable program code for selecting a server of the plurality of servers based on the received information (col. 10, lines 57-65, "chooses a next remote server" based on the IP address); and

Computer readable program code for transmitting the multimedia information from the selected server to a viewer via a network (the client will use the selected address to obtain the multimedia Web information).

Logan disclosed the invention substantially as claimed however, Logan failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of Logan's system is to provide faster delivery of content to users by selecting an optimum server for content delivery. Further it was notoriously widely known in the art at the time of the invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Logan to use edge servers

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as opposed to any server in order to improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

Logan also failed to specifically recite that the plurality of servers are registered by *a viewer using the viewing system*. Nonetheless it was widely known at the time of the invention to have viewers (users) select a servers for routing content to the viewer, as evidenced by Maddalozzo. In an analogous art, Maddalozzo disclosed a system that selects a server to retrieve viewer requested content based a preferred list of servers (ranked circulating list) (see inter alia Figure 7 and Col 11, lines 14-58). In Maddalozzo's system the viewer (user) selects a preferred list of servers from a list of servers displayed at the viewer (i.e. the user ranks the mirrored network locations) (see inter alia, Col 11, lines 23-30 and Col 12, lines 45-46). Maddalozzo disclosed that allowing users to enter the preferred order of servers for retrieving content allows the knowledge of the user, such as user's prior experience, to factor into the server selection process and helps to provide the best communication performance for the user (Col 10, lines 64-67). In addition to the user's past experience, the user may be aware of other factors such as scheduled system outages or a predicted increase in usage of particular server and accordingly would prefer not to utilize those servers for retrieving content. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the viewers of Logan's system to select the plurality of servers for retrieving content as disclosed by Maddalozzo, so that the knowledge of the user can be utilized in choosing the best servers for retrieving content and thereby increase overall system performance.

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In considering claim 23, Logan further discloses that the information comprises an address (col. 10, lines 52-65).

In considering claim 24, Logan further discloses that the information further comprises a unique identifier (i.e. IP address, source address, and server addresses).

In considering claim 25, Logan further discloses that the unique ID is a global user ID number (i.e. user IP address).

In considering claim 27, Logan further discloses that the receiving information comprises gathering one of a local information and a viewer location (i.e. user's IP address, source address, or server address).

In considering claim 28, Logan further discloses confirming the viewer location of the viewer (col. 10, lines 52-65, wherein selecting the geographically closest server to the requesting client will confirm a viewer location).

In considering claim 29, Logan further discloses that the information comprises a plurality of addresses (i.e. "ordered hand-off table").

In considering claim 30, Logan further discloses that the addresses correspond to a plurality of servers (remote servers).

In considering claim 32, Logan further discloses that the information is geographic information of the viewer (col. 10, lines 15-35, 53-60, wherein the system finds which remote server is closest to the geographic location of the user).

In considering claim 33, Logan further discloses computer program code for storing a server location at a viewer location (col. 11, lines 5-8, wherein the "HTTP redirect" sent to the client includes the IP address of the remote server).

In considering claims 34-35, Logan further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 6, lines 42-46).

In considering claim 36, Logan failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 38, Logan further discloses that the network is a LAN or WAN (i.e. Internet).

In considering claim 39, Logan further discloses that the network indicates a type of connection (i.e. HTTP connections).

In considering claim 40, Logan remains silent regarding the type of hardware connections that servers and clients can have to the network. Nonetheless, Examiner takes official notice that Ethernet, WDM, ATM, and dial-up modems were well known at the time the invention was made. It would have been obvious to allow these types of connections to the network taught by Logan because they are standard, widely available connection means.

Claim 41 presents an apparatus for performing the same steps as claim 21, and is thus rejected for the same reasons.

Claims 43 and 44 contain the same limitations as claims 23 and 24 and are thus rejected for the same reasons.

Claims 45 and 52 contain the same limitations as claims 25 and 32 and are thus rejected for the same reasons.

Claims 49 and 50 contain the same limitations as claims 29 and 30 and are thus rejected for the same reasons.

6. Claims 12, 27-28, 32, and 52, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and McCanne and Maddalozzo, in view of Logan.

In considering claims 12, 26-27, and 32, although Kenner discloses substantial features of the claimed invention, it fails to disclose storing information regarding the geographic information of the user. Nonetheless, as discussed above, Logan discloses such a feature in a server selection system. Thus, as suggested by Logan, it would have been obvious to include a geographical indicator in the system taught by Kenner to better select a server closest to the requesting client.

7. Claims 6, 26, and 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and McCanne and Maddalozzo , in view of Kenner et al. (U.S. Patent No. 5,956,716, hereinafter “Kenner2”).

In considering claim 6, although Kenner describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider (“PIM 64”) to select appropriate servers (“SRUs 66”) to respond to client requests, wherein a client request for information includes a registration ID (“subscriber ID number”) that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will

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dynamically change, and so identifying users by a registration ID will be easier to maintain than dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Kenner.

8. Claims 26 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens and McCanne and Maddalozzo, in view of Kenner2.

In considering claims 26 and 46, although Emens describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider ("PIM 64") to select appropriate servers ("SRUs 66") to respond to client requests, wherein a client request for information includes a registration ID ("subscriber ID number") that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will dynamically change, and so identifying users by a registration ID will be easier to maintain than dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Emens.

9. Claims 26 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan and McCanne and Maddalozzo, in view of Kenner2.

In considering claims 26 and 46, although Logan describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider ("PIM 64") to select appropriate servers ("SRUs 66") to respond to client requests, wherein a client request for information includes a registration ID ("subscriber ID number") that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will dynamically change, and so identifying users by a registration ID will be easier to maintain than dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Logan.

Response to Arguments

Applicant's asserts that McCanne's edge servers do not server as delivery sites for clients (Applicant's response January 23, 2006, pg 9). Examiner respectfully disagrees. McCanne

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explicitly disclosed that the edge servers serve content to users in response to requests and thus certainly are delivery sites (see inter alia McCanne Col 9, lines 61-64).

All of Applicant's other arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

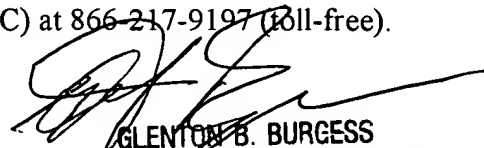
Conclusion

1. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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